

United States 11
Circuit Court of Appeals
For the Ninth Circuit.

TAKEYO KOYAMA,

Appellant,

vs.

A. E. BURNETT, Immigration Inspector of the
Port of Honolulu, Hawaii,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for
the Territory of Hawaii.

FILED

JUL 27 1925

F. D. MCHESNEY

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For the Ninth Circuit.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD.

For the Applicant, Takeyo Koyama:

LIGHTFOOT & LIGHTFOOT, McIntyre
Building, Honolulu, Hawaii.

For the Respondent, A. E. Burnett, Esq., Immigra-
tion Inspector in Charge at the Port of Honolulu:

CHARLES F. PARSONS, Esq., United States
District Attorney, Federal Building, Hon-
olulu, Hawaii. [1*]

In the United States District Court for the Terri-
tory of Hawaii.

No. 188.

In the Matter of the Application of TAKEYO
KOYAMA for a Writ of Habeas Corpus.

CLERK'S STATEMENT.

Time of Commencing Suit:

August 7, 1923: Petition for writ of habeas corpus
filed and alternative writ of habeas corpus
issued to the United States Marshal for the
District of Hawaii.

*Page-number appearing at foot of page of original certified Tran-
script of Record.

Names of Original Parties.

TAKEYO KOYAMA, Applicant.

RICHARD L. HALSEY, Respondent (now deceased), succeeded by A. E. BURNETT, Immigration Inspector in Charge at the Port of Honolulu, T. H.

Dates of Filing of Pleadings:

August 7, 1923: Petition for writ of habeas corpus.

Service of Process.

August 7, 1923: Alternative writ of habeas corpus issued and delivered to the United States Marshal for the District of Hawaii. Thereafter the following return was made by the said United States Marshal, to wit:

“United States Marshal’s Office.

MARSHAL’S RETURN.

The within writ of habeas corpus was received by me on the 7th day of August, A. D. 1923, and is returned executed this 7th day of August, A. D. 1923, upon Richard L. Halsey, U. S. Immigration Inspector in charge of Immigration at the Port of Honolulu by exhibiting to him the original alternative writ of habeas corpus, and by handing to and leaving with him a certified copy of the same.

OSCAR P. COX,

United States Marshal.

By (S.) M. F. Mattson,

Deputy.

Dated at Honolulu this 7th day of August, A. D. 1923.” [2]

Time When Proceedings Were Had:

August 25, 1923: Order of continuance to enable respondent to file return.

March 13, 1924: Order of continuance for argument on demurrer.

March 18, 1924: Argument on demurrer and continuance for further argument on said demurrer.

March 19, 1924: Further argument on demurrer and cause taken under advisement.

February 13, 1925: Order granting applicant time to prosecute appeal.

Dates of Filing Appeal Documents:

March 2, 1925: Petition for appeal and admission to bail pending appeal, assignment of errors, order allowing appeal and releasing prisoner on bail.

March 7, 1925: Supersedeas bail bond; appeal bond for costs.

March 13, 1925: Praecipe.

March 2, 1925: Citation issued.

Proceedings had before the Honorable J. B. POINDEXTER and the Honorable WILLIAM T. RAWLINS, Judges.

The judgment in the above-entitled cause was filed and entered on February 21, 1925. [3]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO THE ABOVE STATEMENT.

United States of America,
Territory of Hawaii,—ss.

I, Wm. L. Rosa, Clerk of the United States District Court for the Territory of Hawaii, do hereby certify the foregoing to be a full, true and correct statement showing the time of commencement of the above-entitled cause; the names of the original parties thereto and those who have become parties before the appeal, the several dates when the respective pleadings were filed; an account of the service of process herein, the time when proceedings were had and the names of the Judges presiding; the date of the filing and entering of the final judgment and date when the petition for appeal was filed and citation issued in the above-entitled cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 19th day of May, A. D. 1925.

[Seal] WM. L. ROSA,
Clerk, United States District Court, Territory of
Hawaii. [4]

In the District Court of the United States in and for the Territory of Hawaii. In the Matter of the Petition of Takeyo Koyama, for a Writ of Habeas Corpus. Petition for Writ of Habeas Cor-

pus. Filed Aug. 7, 1923, at — o'clock and 25 minutes P. M. (Sgd.) Wm. L. Rosa, Clerk. Lightfoot & Lightfoot, Attorneys for Petitioner McIntyre Building, Honolulu. [5]

In the District Court of the United States in and for the Territory of Hawaii.

In the Matter of the Petition of TAKEYO KOYAMA for a Writ of Habeas Corpus.

PETITION FOR WRIT OF HABEAS CORPUS.

To the Honorable J. B. POINDEXTER, Judge of the District Court of the United States in and for the District and Territory of Hawaii:

The petition of Takeyo Koyama respectfully shows unto your Honor as follows:

I.

That petitioner was born in the prefecture of Hiroshima, Empire of Japan, and is a subject of the Emperor of Japan.

II.

That petitioner first arrived at the port of Honolulu on the 18th day of May, 1918, and upon her arrival was married according to the laws of the Territory of Hawaii to Matsuichi Koyama, and the said Matsuichi Koyama was born in the Territory of Hawaii on the 18th day of August, 1892, and holds certificate of Hawaiian birth No. 9447, issued July 27, 1918, by the Honorable Curtis P. Iaukea, Secretary of Hawaii, and is a citizen of the United States of America; that the said Matsuichi

Koyama is now residing in the City of Los Angeles, State of California.

III.

That your petitioner is a musician and is able to play Japanese music on several kinds of stringed instruments and is able to [6] make a living by following the profession of a musician.

IV.

That your petitioner left the Territory of Hawaii on the 26th day of June, 1922, for the purpose of taking the child of her, the said Takeyo Koyama, and the said Matsuichi Koyama, born as the issue of the said marriage, to Japan for the purpose of having said child placed in the care of the petitioner's aunt, and that when petitioner left for Japan as aforesaid she intended to return to Hawaii, remain in Hawaii a short time and then proceed to Los Angeles, State of California, to join her husband.

V.

That petitioner, before leaving Hawaii for the Empire of Japan, as aforesaid, and on to wit, the 21st day of June, 1922, signed and verified under oath before a Notary Public of the First Judicial Circuit of the Territory of Hawaii, an affidavit alleging the marriage, as aforesaid, and the American citizenship of the husband of said petitioner, a copy of the affidavit being hereto attached and made a part hereof, marked Exhibit "A" and to which reference is hereby made; that attached to the said affidavit is the certificate of the Honorable Harry Irwin, then Attorney General of the Terri-

tory of Hawaii, to the effect that the Notary Public taking the oath of said petitioner was duly authorized so to do, a copy of which certificate is hereto attached and made a part hereof, marked Exhibit "B" and to which reference is hereby made.

VI.

That before leaving the Empire of Japan and returning to the Territory of Hawaii, petitioner visited the Consulate of the United States at the port of Yokohama, Empire of Japan, and took and subscribed on oath before Paul E. Jenks, Esq., Vice-Consul of the United States of America at Yokohama, Japan, to the effect that [7] petitioner is the same person mentioned in the affidavit above referred to and that it was the intention of petitioner to depart from the port of Yokohama, Japan, on board the steamship "Tenyo Maru" scheduled to sail on the 6th day of June, 1923, for the purpose of returning to Honolulu, Hawaii, to join her husband, Matsuichi Koyama, an American citizen; that said affidavit, Exhibit "A," was filed by petitioner with the American Consul at the port of Yokohama, and is referred to in the affidavit signed by petitioner before said Vice-consul, and that said affidavit contained the photograph of petitioner; that a copy of said affidavit so taken at the American Consulate at the port of Yokohama, as aforesaid, is hereto attached and made a part hereof, marked Exhibit "C" and to which reference is hereby made.

VII.

That upon the presentation of the affidavit Exhibit "A" and the signing of the affidavit Exhibit "C," your petitioner was informed by the Vice-consul of the United States at the port of Yokohama, that in view of the fact that your petitioner is the wife of an American citizen, no passport would be required and accordingly petitioner left the port of Yokohama on board the steamship "Tenyo Maru" on or about the 6th day of June, 1923, bound for the port of Honolulu, bearing the affidavits aforesaid and without the passport issued by the Government of Japan.

VIII.

That upon arrival at the port of Honolulu on or about the 16th day of June, 1923, a United States Immigration Inspector, whom petitioner is informed and believes and therefore alleges the fact to be, is Jackson L. Milligen, examined your petitioner, and acting alone, the said Jackson L. Milligen, United States Immigration Inspector, as aforesaid, held your petitioner for examination [8] before a Board of Special Inquiry at the port of Honolulu.

IX.

That on the 16th and 18th days of June, 1923, your petitioner was examined by a Board of Special Inquiry at the Immigration Station, Honolulu, a copy of the proceedings had before said Board being hereto attached and made a part hereof, marked Exhibit "D," and to which reference is hereby made.

X.

That upon the conclusion of the examination before the Board of Special Inquiry, as aforesaid, your petitioner was informed by Edwin Farmer, a United States Immigration Inspector, and a member of said Board of Special Inquiry, that your petitioner was denied a landing in the United States and was ordered deported to the country whence she came, to wit, the Empire of Japan, and petitioner was further informed that she had right to appeal from the decision of said Board of Special Inquiry to the Secretary of Labor.

XI.

That thereupon petitioner signed an appeal to the Secretary of Labor prepared for her signature by the Immigration officers at said port of Honolulu, she, the said petitioner, being unrepresented by counsel in her said appeal; that a copy of said appeal is hereto attached and made a part hereof, marked Exhibit "E" and to which reference is hereby made.

XII.

That petitioner is informed and believes and upon such information and belief alleges and avers that said appeal was duly forwarded to the Secretary of Labor by Richard L. Halsey, Esq., United States Immigration Inspector in Charge at the port of Honolulu, and that said Inspector in Charge forwarded to the Secretary of Labor, in addition to the said appeal, a statement of the case, [9] a copy of which is hereto attached and made a part hereof,

marked Exhibit "F" and to which reference is hereby made.

XIII.

That your petitioner is informed and believes and upon such information and belief alleges and avers that on the 17th day of July, 1923, one, G. G. Tolman, Immigrant Inspector acting for the Commissioner General at the office of the Department of Labor, Washington, D. C., informed the said Inspector in Charge at the port of Honolulu, that "the Acting Secretary has affirmed the excluding decision of the Board of Special Inquiry"; that a copy of the letter so informing the said Inspector in Charge is hereto attached and made a part hereof, marked Exhibit "G" and to which reference is hereby made.

XIV.

That your petitioner is now imprisoned, restrained and deprived of her liberty by the said Richard L. Halsey, Esq., United States Immigration Inspector in Charge at the port of Honolulu, at the United States Immigration Station, Honolulu, and your petitioner is informed and therefore alleges the fact to be, that she is so imprisoned, restrained and deprived of her liberty under the said holding of said Board of Special Inquiry at the Port of Honolulu, affirmed by the Acting Secretary of Labor in the letter of said G. G. Tolman above referred to, and your petitioner is further informed and believes and upon such information and belief alleges and avers that it is the intention of the said Richard L. Halsey, Esq., United States Inspector in

Charge, as aforesaid, to deport your petitioner to the Empire of Japan by the first steamer available for that purpose.

XV.

That said imprisonment, restraint and confinement is illegal for the following reasons: [10]

First: Your petitioner was held to appear before the Board of Special Inquiry by one Immigration Inspector, to wit, by Jackson L. Milligen, contrary to the provisions of Subdivision I, Rule III of the Immigration Rules of May 1, 1917.

Second: That the hearing before the Board of Special Inquiry, as aforesaid, was not a fair and impartial hearing but was an unlawful and partial hearing and constituted the mere semblance of a hearing.

Third: That as a matter of law the findings of the Board of Special Inquiry were illegal for the reason that it failed to take into account the fact that your petitioner is the wife of an American citizen and therefore has the right to enter the United States of America without a passport.

Fourth: That the document verified before the Vice-Consul at Yokohama, Japan, as aforesaid, is the equivalent of a passport and gave the right to petitioner of entry into the United States.

WHEREFORE, petitioner prays that a writ of habeas corpus issue out of this Honorable Court directed to Richard L. Halsey, Esq., United States Immigration Inspector in Charge at the port of Honolulu, commanding him, the said Richard L. Halsey, to produce the body of your petitioner be-

fore this Honorable Court to the end that the said imprisonment, restraint and confinement of your petitioner may be inquired into and that upon a hearing of said writ of habeas corpus the same may be made perpetual and your petitioner discharged thereunder; and for such other and further relief as to this Honorable Court shall seem meet in the premises.

Dated at Honolulu, T. H., this 6th day of August, 1923.

(Sgd.) TAKEYO KOYAMA.

Petitioner. [11]

United States of America,
Territory of Hawaii,—ss.

Comes now Takeyo Koyama, and being first duly sworn on oath, deposes and says; that she is the petitioner above named; that she has read the foregoing petition for a writ of habeas corpus and knows the contents thereof, and that the same is true, except as to the matters therein alleged on information and belief, and as to these, she believes them true.

(Sgd.) TAKEYO KOYAMA.

Subscribed and sworn to before me this 6th day of August, A. D. 1923.

[Seal]

(S.) JIUNKI MAEDA,

Notary Public, First Judicial Circuit, Territory of Hawaii. [12]

EXHIBIT "A."

COPY.

Territory of Hawaii,
City and County of Honolulu.

Takeyo Koyama, being first duly sworn on oath

deposes and says; That she is a subject of the Japanese Empire; that she arrived in the Hawaiian Islands on May 18, 1918; that she married one Matsuichi Koyama in June, 1918, by the Rev. C. Sakai; that said Matsuichi Koyama, husband of said Takeyo Koyama is a citizen of the United States *having born* in the Hawaiian Islands on August 18, 1892; that said Takeyo Koyama intends to depart temporary for Japan for her health; that said Matsuichi Koyama holds Hawaiian Birth Certificate No. 9447 issued July 27, 1918 by Honorable C. P. Iaukea, Secretary of Hawaii.

(Signed) TAKEYO KOYAMA.

Subscribed and sworn to before me this 21st day of June, A. D. 1922.

(Signed) P. SILVA,
Notary Public, First Judicial Circuit, Territory of
Hawaii. [13]

EXHIBIT "B."

COPY.

TERRITORY OF HAWAII.

Office of the Attorney General.

WHEREAS, Under and by virtue of an Act of the Congress of the United States of America, entitled "An Act to provide a Government for the Territory of Hawaii," approved on the 30th day of April, 1900, the appointment and removal of all notaries public within and for the Territory of Hawaii was vested solely in the Attorney General of said Territory:

NOW, THEREFORE, I, Harry Irwin, of Honolulu, City and County of Honolulu, Territory of Hawaii, the duly appointed, commissioned, qualified and acting Attorney General of said Territory, do hereby certify that Patrick Silva of Honolulu, County of Honolulu, Territory of Hawaii, was on the 23d day of January, A. D. 1907, duly appointed and commissioned as a Notary Public for the First Judicial Circuit of the Territory of Hawaii; that on the 21st day of June, A. D. 1922, his commission as a notary public remained in force and unrevoked, and that on said day he had full power and authority under the laws of the Territory of Hawaii to act as a notary public in said First Judicial Circuit of said Territory and to administer oaths, and to take and certify acknowledgments of deeds and other conveyances of land in said Territory. That I am acquainted with his handwriting and verily believe that the signature appended to the foregoing instrument is his signature.

IN WITNESS WHEREOF, I hereunto set my hand and have caused the seal of my office to be affixed this 21st day of June, A. D. 1922.

[Seal of Attorney General.]

(Signed) HARRY IRWIN,
Attorney General of Hawaii. [14]

EXHIBIT "C."

COPY.

Empire of Japan,
Prefecture of Kanagawa,
City of Yokohama,
Consulate General of the
United States of America,—ss.

Takeyo Koyama, first being duly sworn on oath, doth depose and say that she is the same and identical Takeyo Koyama mentioned in her own affidavit made before the Notary Public, First Judicial Circuit, Territory of Hawaii, dated June 21, 1922, and duly certified by the Attorney General and Secretary of Hawaii, now in her possession; that it is her intention to return to Honolulu, Hawaii, to join her husband, Matsuichi Koyama, an American citizen, taking passage on the SS. "Tenyo Maru" scheduled to sail from Yokohama, June 6, 1923; that attached hereto is a photograph of her taken in Yokohama this day.

(Signed) TAKEYO KOYAMA.

TAKEYO KOYAMA.

Subscribed and sworn to, and the above-mentioned affidavit produced before me this fifth day of June, 1923.

(Photograph.)

(Signed) PAUL E. JENKS,

P. E. JENKS,

Vice-Consul of the United States of America, at
Yokohama, Japan.

AMERICAN CONSULATE GENERAL

American Consular Service, \$2. June 5, 1923.

Fee Stamp. Yokohama, Japan.

Consular Seal.

SERVICE No. 5289.

[15]

EXHIBIT "D."

U. S. DEPARTMENT OF LABOR.

Immigration Service.

Office of Inspector in Charge,

Honolulu, Hawaii.

No. 1.

Record of Board of Special Inquiry, convened
June 16, 1923.

Members of Board; EDWIN FARMER, Chair-
man; LOUIS CAESAR and LOUIS N. LAND.
Interpreter, T. KATSUNUMA.

Case of TAKEYO KOYAMA, 11-5, ex SS.
"Tenyo Maru," 6116/23.

Note: Applicant has no passport. She presents
an affidavit sworn to by herself on June 21, 1922,
in Honolulu, to the effect that her husband, MAT-
CUICHI KOYAMA, is an American citizen.

Held for the Board by Inspector, Jackson L.
Milligan.

Applicant, sworn by Inspector Farmer, testifies:

Q. What is your name and age?

A. Takeyo Koyama, 22 years old.

Q. Do you desire to have a friend or relative
present during this hearing? A. No need.

- Q. Is any one traveling with you? A. No.
- Q. Where were you born?
- A. At Kusatsu Machi, Hiroshima Ken, Japan.
- Q. Are you married?
- A. Yes. My husband, Matsuichi Koyama, 32 years old, is living in Los Angeles, California.
- Q. When were you married to him?
- A. June, 1918, in Honolulu.
- Q. Were you married by American or Japanese custom? A. American.
- Q. Did you have a marriage license?
- A. Yes, my husband has it now.
- Q. Have you any children?
- A. Yes, one son, Shiceki Koyama, 3 years old, born in Honolulu and now at Osaka City, Japan. I have no daughters.
- Q. Did you ever have any other husband?
- A. No.
- Q. Was your husband *every* married before?
- A. No.
- Q. Can you read and write?
- A. Yes. (Passes in reading test.)
- Q. Who paid your passage? A. Myself.
- Q. Your husband did not pay it?
- A. No. But he sent money later.
- Q. What has been your occupation?
- A. Nothing in Japan. I was a waitress at the Kikizuki Tea House, Vineyard Street, this city.
- Q. How long were you a waitress there?
- A. Six months.
- Q. What do you intend to do if you are admitted here?

A. I don't know. I cannot tell. But it is my intention to go to the mainland some day.

Q. Do you expect to be a waitress in the same or some other tea house again.

A. I have no such intention now.

Q. What kind of work can you do to earn a living?

A. I can play music. I can live on that—Japanese music. I can play on the three stringed and also the 13 stringed instrument.

Q. When did you first come to Hawaii?

A. May 7, 1918.

Q. Were you admitted as a picture bride?

A. Yes.

Q. And then after that you got married under American law, did you? A. Yes.

Q. When did your husband go to Los Angeles?

A. On September 1, 1920.

Q. Did you live with your husband right along here from the time you arrived in Hawaii until he went to Los Angeles? A. Yes.

Q. When did you go back to Japan?

A. I left here June 26th, last year.

Q. Then you did not live with your husband from September, 1920, [16] until you left for Japan in June, last year, and of course you have not been with him since then until now? A. No.

Q. It has been nearly three years since you saw him?

A. Yes. Next September will be three years that I have not seen him.

Q. Did he desert you and go to Los Angeles?

A. Not exactly, no. We have a child and he is going to send for me later.

Q. Was that child born before he went to Los Angeles?

A. The child was seven months old when he went to the mainland.

Q. How is it that you should separate for such a long time and you go to Japan and he to the States?

A. I postponed going to the mainland because we wanted to send my child to Japan, and then I would like to go and join my husband.

Q. Why didn't he take you and the child to the mainland with him?

A. My aunt in Japan said to us, "I will take care of your child."

Q. It has been about a year since you went to Japan. Where have you been staying there?

A. In Tokio and Osaka, also my native town, Kusatsu Machi.

Q. Has your aunt been taking care of the child?

A. Yes.

Q. Why is it that you let your aunt *take of* your child? He is only three years old now and was very young when you took him to Japan.

A. I left my child with my aunt and am going to the mainland to get work.

Q. You do not think very much of your child, do you? A. No.

Q. Does your husband want you to go to Los Angeles? A. Yes.

Q. Have you received any letters from him?

A. Yes.

Q. Have you got any of those letters, showing that he wants you to come?

A. No. I left them in Japan.

Q. Why did you not secure a passport?

A. A hotel-keeper told me that what I have was enough.

Q. Did you go to an American Consul?

A. Yes.

Q. What consul? A. At Yokohama.

Q. What did he say?

A. (Presents an affidavit sworn to by herself before the American Consul at Yokohama, to the effect that her husband is an American citizen and that it is her intention to return to Honolulu to join him. Her picture is affixed.)

Q. Did you tell him that your husband was in Los Angeles? A. No.

Q. Have you any further statement to make?

A. No.

(By Mr. LAND.)

Q. What were you doing in Osaka?

A. My aunt took my child to Osaka and made a home there?

Q. What did you do in Tokio?

A. My aunt and myself were in Tokio with my child. My aunt was cleaning clothes. I was doing nothing.

Q. What is your husband doing in Los Angeles?

A. He is a florist.

Q. Why didn't you go to Los Angeles instead of coming to Honolulu when you left Yokohama?

A. My uncle here, Torakichi Iida, wanted me here.

Q. What is his occupation? A. Fisherman.

Q. Did your husband send you money to go to Los Angeles or to come to Honolulu?

A. To Hawaii.

(By Mr. FARMER.)

Q. What relatives have you in Hawaii?

A. My uncle Iida. That is all. I have many friends here.

Q. Are your parents living? A. Yes, in Japan.

Q. Where do they live? A. At Kusatsumachi.

Q. Has your husband any relatives living in Hawaii? A. No.

(By Mr. LAND.)

Q. Is it not a fact that you and your husband separated and he went to Los Angeles in 1920?

A. No, not that thing.

Q. How much money have you? A. \$25.00.

Q. Then if you stay in Hawaii any length of time you will have to do something to earn your living, will you not?

A. No. I will get money from my husband. [17]

Q. What was your husband's occupation when he went to Los Angeles? A. Florist

Q. Was he not an actor? A. No.

(By Mr. FARMER.)

Q. Did you make application to the Japanese Government for a passport? A. No.

Q. Have you a marriage certificate or anything to show that you are legally married to Matsuichi Koyama?

A. No, but I can produce a copy. I can get it from Rev. Kato.

Q. Are you registered in Japan as the *husband* of Matsuichi Koyama? A. Yes.

Q. Has your name been taken from his family record? A. No.

Q. Have you a family record with you?

A. Yes.

(Presents a family record without date. It shows that she was married to Matsuichi Koyama Sept. 8, 1916, and that a child was born to them Feb. 3d, 1920, on Vineyard Street, Honolulu, and said child was registered with the Japanese Consul, Honolulu, on Feb. 12, 1920.)

Q. When did you secure this paper?

A. May 20th, this year.

Q. Were you married by correspondence in 1916?

A. Yes. But I did not come to Hawaii until 1918.

Q. Have you any further statement to make?

A. No.

(S.) TAKEYO KOYAMA.

TAKEYO KOYAMA. [18]

EXHIBIT "D."

COPY.

U. S. DEPARTMENT OF LABOR.

Immigration Service.

Office of Inspector in Charge,
Honolulu, Hawaii.

TAKEYO KOYAMA.

6/18/23.

Applicant, recalled, testifies:

(By Inspector FARMER.)

Q. What was your maiden name?

A. Takeyo Yoshizaki.

STATEMENT BY CHAIRMAN.

I have been to the Board of Health office and find it there recorded that Matsuichi Koyama and Takeyo Yoshizaki were married in Honolulu on June 3, 1918. From this it would appear that the applicant is the lawful wife of her alleged husband, unless she has been divorced from him, and I have not found any record of a divorce.

She is not the kind of a woman whom I would consider desirable as a resident of this country. The occupation in which she has been engaged is one in which the persons engaged in it are often of a questionable character, though not necessarily so. But a woman who states that she does not care for her child and takes him to Japan and gives him in charge of an aunt is certainly not of the highest type of woman, though that is not a fact which

would exclude her from admission. She has lived for about three years separate from her husband, although only married to him five years, and that arouses suspicion, but, like the other facts, does not furnish proof that she is excludable. Then, why did she not go to California instead of to Hawaii if she intends to join her husband? That has not been satisfactorily explained.

While I cannot say that she belongs to one of the regular excluded classes, still she has no passport and should be excluded under the regulations of the Department of State. She is an alien, not a citizen, although married to one alleged to be a citizen. Bureau letter of October 27, 1922, No. 52903/43-B advises that in cases of alien women married to citizens when their governments refuse them passports, regarding them as American citizens, although regarded as aliens by us, the Consul shall have them make an affidavit setting forth the reasons why their own governments refuse them passports and attach the same to Form 228 and vise the latter. In case they arrive without Form 228, they are to be paroled and the matter submitted to the Bureau in order to secure a formal waiver of passport and vise from the State Department. It may have been this regulation which the American Consul at Yokohama had in mind when he took the affidavit from the applicant. But in this case the alien woman married to a citizen was of a race of people ineligible to citizenship and there is no reason to believe the Japanese government would have refused her a passport on the ground that she would be an Ameri-

can citizen. She testifies herself that she did not even apply for a passport. The affidavit does not say that she was unable to procure one, nor state the reasons why one could not be obtained. I think, therefore, that the applicant should be denied and the matter submitted to the Bureau for such action as may be deemed advisable. [19]

LOUIS CAESAR.—I move that the applicant be denied admission to the United States and returned to Japan, the country from which she came, as an alien without a passport, as contemplated in the rules of the State Department, and that we do not recommend a waiver of the passport and vise regulations in this case.

LOUIS N. LAND.—I second the motion.

EDWIN FARMER.—I concur. (To applicant.) You have been denied admission to the United States and ordered returned to Japan, the country from which you came, as an alien without a passport, as contemplated by the regulations of the State Department. From this decision you have the right of appeal to the Secretary of Labor at Washington, and you may also ask for a waiver of the passport and vise regulations in your case under the circumstances. The Board of Special Inquiry, however, do not recommend such waiver. If you are finally deported you will be sent back at the expense of the owners of the steamer on which you came, in the same class as that in which you came, namely, the second class. If you desire to appeal you must notify the Inspector in Charge to that effect within

48 hours and you may appeal either with or without an attorney.

I certify the foregoing to be a correct record.

(S.) EDWIN FARMER,
Immigration Inspector. [20]

EXHIBIT "E."

Honolulu, T. H., June 18th, 1923.

Inspector in Charge

U. S. Immigration Service

Honolulu, T. H.

Having been denied admission to Hawaii by the Board of Special Inquiry, I hereby appeal from their decision to the Secretary of Labor, without the services of an attorney.

(Signed) TAKEYO KOYAMA. [21]

EXHIBIT "F."

U. S. DEPARTMENT OF LABOR.

Immigration Service.

COPY.

4395/198.

Office of Inspector in Charge,
Honolulu, Hawaii.

Honolulu, T. H., June 20, 1923.

TAKEYO KOYAMA—Claiming Admission as the
Wife of an American Citizen; also Coming to
This Port Without a Passport.

Name—TAKEYO KOYAMA.

Marital status—Married to MATSUICHI KOYAMA; 32; living in Los Angeles, California; has one son, SHIGEKI KOYAMA; 3 years old.

Age—22.

Literacy—Can read and write.

Occupation—Waitress and musician.

Citizenship—Citizen of Japan.

Date of Arrival—June 15, 1923.

Steamship—SS. "Tenyo Maru."

Destination—Honolulu, T. H.

Decision of Board—Denied by unanimous vote on June 18th, 1923, *an* an alien without a passport.

Applicant appeals without an attorney.

The reasons for the denial are fully set forth on pages 4 and 5 of the record. The Board finds that this applicant is coming to this port without a passport, as contemplated in the rules of the State Department, and they do not recommend a waiver of the passport and vise regulations.

It will be observed that when applicant made her affidavit before the Vice-consul on June 5, 1923, she presented her affidavit certified to by the Attorney-General and Secretary of Hawaii and on this paper there is a vise of the American Vice-consul at Yokohama, dated July 14, 1922, and there is no reference in the record to this vise, which was prior to Bureau Letter of Oct. 27th, 1922. The presentation of this visaed document may have been relied on by her and possibly by the Vice-counsel on June 5, 1923.

After the answer that she had left her child with her aunt she was asked, "You do not think very much of your child, do you?" she answered, "No."

The Inspector in the memorandum infers from this answer that she does not care for her child and is a woman who has no natural feeling. As I speak the Japanese language and understanding how a question like this might be put by an interpreter with a different understanding from the import that was intended to be conveyed by the Inspector and that the language would be very idiomatic, I asked the Interpreter what expression he used. He stated that he asked her if she was "suspended much in her mind, about the child," which we would freely translate whether she was worried or uneasy about the child and she replied, "No"—she states that by her answer she meant she was not worried because in many ways her aunt knows how to take care of the child better than she would herself. [22]

The same difficulty in translating expressions in regard to thinking is seen in other languages—you may recall, that, in King James version of the Bible there is the translation—"Take no thought for the morrow" the translation of the Revised Version is "Be not anxious," which is beyond question the proper translation. However, this matter does not impress me as being material as the decision is based on the fact that she is an alien without a passport. The appeal is submitted for such action as may com-

mend itself to you in view of the showing in relation thereto.

(Sgd.) R. L. H.,
Inspector in Charge.

RLH/MM.

Mailed 6/22/23. [23]

EXHIBIT "G."

U. S. DEPARTMENT OF LABOR.

Immigration Service.

(COPY.)

Office of Inspector in Charge,

Honolulu, Hawaii.

U. S. DEPARTMENT OF LABOR.

Bureau of Immigration.

Washington.

No. 54976/29.

July 17, 1923.

Inspector in Charge,

Immigration Service,

Honolulu, T. H.

The Bureau acknowledges the receipt of your letter No. 4395/108 of June 20th in the case of Takeyo Koyama.

After carefully considering the evidence presented in the record, the Acting Secretary has af-

firmed the excluding decision of the Board of Special Inquiry.

For the Commissioner General:

(Sgd.) G. G. TOLMAN,
Immigrant Inspector.

GG. [24]

In the United States District Court in and for the District and Territory of Hawaii. In the Matter of the Petition of Takeyo Koyama for a Writ of Habeas Corpus. Alternative Writ of Habeas Corpus. Filed on return Aug. 9, 1923, at 9 o'clock and X minutes A. M. (Sgd.) Wm. L. Rosa, Clerk. Lightfoot & Lightfoot, Attorneys for Petitioner, McIntyre Building, Honolulu. [25]

In the United States District Court in and for the District and Territory of Hawaii.

In the Matter of the Petition of TAKEYO Koyama for a Writ of Habeas Corpus.

ALTERNATIVE WRIT OF HABEAS CORPUS.

The United States of America to RICHARD L. HALSEY, United States Immigration Inspector in Charge at the Port of Honolulu, GREETING:

Upon reading the petition for writ of habeas corpus filed in the above-entitled court and cause by

Takeyo Koyama, and good cause appearing therefor, and it appearing to the Court that the circumstances of the case require that an alternative writ of habeas corpus shall be issued herein,—

You, Richard L. Halsey, United States Immigration Inspector in Charge at the port of Honolulu, are hereby ordered and directed to produce before this court on Wednesday, the 15th day of August, 1923, at the hour of 2 in the afternoon of said day, the body of Takeyo Koyama, wrongfully imprisoned by you, as it is said, then and there to do and receive what shall be considered by the Court in her behalf.

AND IT IS HEREBY FURTHER ORDERED AND ADJUDGED that the said petitioner, Takeyo Koyama, shall be immediately discharged from custody upon her giving an approved bond to the United States of America in the *panel* sum of \$1000.00 conditioned for her appearance in court whenever thereunto [26] ordered by a Judge thereof.

Dated at Honolulu, this 7th day of August, 1923.

(S.) J. B. POINDEXTER,

Judge of the United States District Court in and for the District and Territory of Hawaii. [27]

In the United States District Court in and for the District and Territory of Hawaii. In the Matter of the Petition of Takeyo Koyama for a Writ of Habeas Corpus. Demurrer. Filed March 13, '24 at 2 o'clock and 10 minutes P. M. (Sgd.) Wm. L. Rosa, Clerk. Fred Patterson, Assistant

United States Attorney, Attorney for the Respondent [28]

In the United States District Court in and for the District and Territory of Hawaii.

In the Matter of the Petition of TAKEYO KOYAMA for a Writ of Habeas Corpus.

DEMURRER.

Comes now the respondent in the above-entitled cause and demurs to the petition of petitioner on file herein and for ground of demurrer thereto specifies:

I.

That said petition does not state facts sufficient to warrant the Court to enter an order herein discharging the petitioner from the custody of the respondent.

II.

That it does not appear from said petition what are the facts from which the petitioner concludes that the hearing of the board of special inquiry was not a fair and impartial hearing.

III.

That it affirmatively appears from the said petition that the petitioner is not entitled to be released from the custody of the respondent herein.

WHEREFORE the respondent prays that this demurrer be sustained and the alternative writ of

habeas corpus heretofore issued in this cause be dismissed.

(Signed) FRED PATTERSON,
Assistant United States Attorney,
Attorney for Respondent. [29]

I, Fred Patterson, Assistant United States Attorney for the District of Hawaii, do hereby certify that in my opinion the foregoing demurrer is well taken in point of law.

(Signed) FRED PATTERSON. [30]

In the United States District Court for the Territory of Hawaii.

Habeas Corpus No. 188.

In the Matter of the Application of TAKEYO KOYAMA for a Writ of Habeas Corpus.

DECISION.

WILLIAM T. RAWLINS, Judge.

FRED PATTERSON, Attorney for Respondent.

LIGHTFOOT & LIGHTFOOT, Attorneys for Petitioner.

Filed Feb. 13, 1925. Wm. L. Rosa, Clerk. By Wm. F. Thompson, Deputy Clerk. [31]

DECISION.

Petitioner herein Takeyo Koyama filed in this court, on the 7th day of August, 1923, a petition

for a writ of habeas corpus, and on the same date the Honorable J. B. Poindexter, Judge of this Court, issued an alternative writ of habeas corpus addressed to Richard L. Halsey, U. S. Immigration Inspector in charge at the Port of Honolulu. To the petition respondent filed a demurrer. The record discloses the following facts:

That petitioner is a citizen of the Empire of Japan, and first arrived in the United States on May 18, 1918, at the Port of Honolulu, and at that time and place was married to Matsuichi Koyama, a citizen of the United States; that she resided with him until September 1, 1920, when said Matsuichi Koyama departed from the Territory of Hawaii and took up his residence in Los Angeles State of California, and that he, from said date of departure has not returned to the Territory of Hawaii; that petitioner left the Port of Honolulu on the 26th day of June, 1922, for the Empire of Japan, taking with her her infant son; that prior to her departure she made an affidavit before a notary public in Honolulu setting forth, among other matters, the fact of her citizenship, the date of arrival in the Territory of Hawaii, her marriage to Matsuichi Koyama and his citizenship, and that she intended to depart "temporarily to Japan for her health."

Petitioner resided in Japan until June 6, 1923, and arrived at the Port of Honolulu on the 16th day of that month. Prior to her departure from Japan she presented herself at the United States Consu-

late in Yokohama, and before Paul E. Jenks, Vice-consul of the United States, swore to an affidavit setting forth that she was the identical person named in the affidavit made in Honolulu before her departure for Japan, and that it was her intention to return to Honolulu, Hawaii, to join her husband who was an American citizen, and intended to take passage on the SS. "Tenyo Maru," sailing from [32] Yokohama June 6, 1923.

Upon her arrival at the Port of Honolulu a Board of Special Inquiry convened and considered her case and denied her admission on the grounds that was an alien without a passport as contemplated by the regulations of the State Department, and therefore not entitled to land.

The grounds for the petition are:

1. That the hearing before the Board of Special Inquiry was not a fair hearing.

2. That as a matter of law the findings of the Board of Special Inquiry were illegal, for the reason that said Board failed to take into account the fact that petitioner is the wife of an American citizen and therefore has the right to enter the United States without a passport.

3. That the document verified before the United States Vice-Consul at Yokohama, Japan, is the equivalent of a passport, and gave petitioner the right to enter the United States.

The contention advanced on behalf of respondent before this Court is, that petitioner, being an alien and without a passport from her government, is not entitled to land by virtue of the Act of May 22,

1918 (Comp. Stats. 1918, Comp. Stats. Ann. Supp. 1919, Sec. 7628E et seq.), the Act of March 2, 1921 (41 St. 1205, 1217) and the Public Resolution of March 3, 1921.

As to the first claim of petitioner, a careful examination of the record of proceedings before the Board of Special Inquiry clearly discloses that the hearing was a fair one, and therefore the Court finds that the contention advanced on behalf of the petitioner is without merit.

That as to the second ground, under the laws of the United States, a Japanese woman does not become a citizen of the United States by virtue of her marriage to a citizen. Section 1994 Revised Statutes only confers citizenship upon a woman married to [33] a citizen of the United States "who might herself be lawfully naturalized." Nor does the marriage to a citizen of the United States prevent the deportation of an alien woman for a violation of the immigration laws.

Yeung How vs. North, 223 U. S. 705.

See, also, *Whoo Choy vs. North*, 183 Fed. 92, in which *Certiorari* was denied by the Supreme Court of the U. S.

The record discloses the petitioner in this case to be a citizen of the Empire of Japan, and therefore her marriage to a citizen of the United States did not confer citizenship upon her.

Low Wah Suey vs. Backus, 225 U. S. 460.

An Act approved May 22, 1918, entitled "An Act to prevent, at any time of war, departure from and

entry into the United States, contrary to public safety," provides:

"When the United States is at war, if the President shall find that the public safety requires that restrictions and prohibitions in addition to those provided otherwise than by this act be imposed upon the departure of persons from and their entry into the United States, and shall make public proclamation thereof. It shall, until otherwise ordered by the President or Congress, be unlawful—

"(a) For any alien to depart from to enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President shall prescribe."

"An act making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1922," being Public Act No. 357, Sixty-Sixth Congress, approved March 2, 1921 (41 Stat. 1205, 1217), provides as follows:

"Expenses, Passport Control Act.

"For expenses of regulating entry into the United States in accordance with the provisions of the act approved May 22, 1918, and of this act, to be immediately available, \$600,000, Provided, that the provisions of the act approved May 22, 1918, shall, in so far as they relate to requiring passports and visés from [34] aliens seeking to come to the United

States, continue in force and effect until otherwise provided by law.”

A joint resolution declaring that certain acts of Congress, joint resolutions, and proclamations shall be construed as if the war had ended and the present or existing emergency expired, being Public Resolution No. 54, Sixty-Sixth Congress, approved March 3, 1921 (41 Stat. 1359), provides:

“And any act of Congress, or any provision of any such act, that by its terms is in force only during the existence of a state of war, or during such state of war and a limited period of time thereafter, shall be construed and administered as if such war between the governments and people aforesaid terminated on the date when this resolution becomes effective, any provision of such law to the contrary notwithstanding excepting, however, from operation and effect of this resolution certain acts not now in question.”

The question presented by this petition is whether the repeal of the war-time act of May 22, 1918, by virtue of Public Resolution of March 3, 1921, is effective as to all of the provisions of that act, notwithstanding the act approved March 2, 1921, above set forth.

The effect of the act of March 2, 1921, was to extend the passport and visé provisions of the act of May 22, 1918, beyond the period set forth in that act, namely, when the United States is at war, and to that extent to repeal this time extension of the

passport visé provisions of that act. Text, context, and the legislative history of this proviso clearly support this construction.

60 Congressional Record, February 24, 1921, pages 4018 to 4022, inclusive.

See also Opinion of Attorney General to Secretary of State, March 30, 1921, 32 Opinions of the Attorney General, 493.

It is clear that these provisions were not, therefore, by their terms "in force only during the existence of a state of war," [35] and are therefore not repealed by the joint resolution of March 3, 1921.

Petitioner herein not having provided herself with a passport, and the affidavits, one made in Honolulu, and the other before the American Consul in Yokohama, Japan, not having the force of or taking the place of a passport as required by the statutes above quoted, cannot be admitted into the United States.

The demurrer for the foregoing reasons is therefore sustained and petitioner's writ of habeas corpus dismissed.

(Signed) WILLIAM T. RAWLINS,
Judge, U. S. District Court Territory of Hawaii.
[36]

In the United States District Court in and for the Territory of Hawaii. No. 188. In the Matter of the Application of Takeyo Koyama for a Writ of Habeas Corpus. Judgment. Filed Feb. 21, '25.

Wm. L. Rosa, Clerk. By (S) Wm. F. Thompson, Jr., Deputy Clerk. 11:50 A. M. Entered in J. D. Book, page 4437. Charles F. Parsons, United States Attorney, District of Hawaii. [37]

In the United States District Court in and for the
Territory of Hawaii.

No. 188.

In the Matter of the Application of TAKEYO
KOYAMA, for a Writ of Habeas Corpus.

JUDGMENT.

This cause having come regularly on to be heard before the above-entitled court at the April, 1923, term thereof, on the petition of petitioner, and an alternative writ of habeas corpus having issued in said cause, and a demurrer having been interposed by the respondent to said petition and said alternative writ; and the Court having duly examined and considered the same and having listened to the arguments of counsel for the respective parties, and after duly deliberating upon the matter, the Court finds that said demurrer is well taken and is therefore sustained; and it further finds that the alternative writ of habeas corpus heretofore issued herein should be dismissed; that the order to show cause by a writ of habeas corpus should not issue herein should be dismissed; and finds that the petitioner should be remanded to the respondent A. E.

Burnett, Inspector in Charge of Immigration at the Port of Honolulu, Territory of Hawaii.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the alternative writ of habeas corpus and said order to show cause heretofore issued herein be and the same are hereby discharged, and the petition is dismissed;

IT IS FURTHER ORDERED that the said petitioner Takeyo Koyama be and he is hereby remanded to the custody of the respondent A. E. Burnett, Inspector in charge of Immigration as aforesaid.

WITNESS the Honorable W. T. RAWLINS, Judge of the District Court of the United States, in and for the Territory of Hawaii, at Honolulu, T. H. this 21st day of February, 1925.

[Seal]

(Signed) WM. L. ROSA,

Clerk of said Court. [38]

Minutes of the United States District Court,
Honolulu, Territory of Hawaii.

Saturday, August 25, 1923.

(Title of Court and Cause.)

(ORDER GRANTING RESPONDENT ADDITIONAL TIME TO FILE RETURN.)

Personally appeared Mr. J. Lightfoot, of the firm of Lightfoot & Lightfoot, counsel for the applicant above named and also appeared Mr. Fred Patterson,

Assistant United States Attorney. By agreement of counsel, the Court granted counsel for the respondent additional time within which to file return, October 25, 1923, being the date given.

J. B. POINDEXTER,
District Judge Presiding. [39]

Minutes of the United States District Court,
Honolulu, Territory of Hawaii.

Thursday, March 13, 1924.

(Title of Court and Cause.)

(ORDER OF CONTINUANCE.)

Personally appeared Mr. Fred Patterson, Assistant United States Attorney, counsel for the respondent herein, the applicant and counsel being absent. Mr. Patterson filed in open court a demurrer. The Court thereupon ordered that this cause be continued to March 18, 1924, for argument on said demurrer.

WILLIAM T. RAWLINS,
District Judge Presiding. [40]

Minutes of the United States District Court,
Honolulu, Territory of Hawaii.

Tuesday, March 18, 1924.

(Title of Court and Cause.)

(PROCEEDINGS AT ARGUMENT ON DEMURRER AND ORDER OF CONTINUANCE.)

On this day came Mr. J. Lightfoot, of the firm of Lightfoot & Lightfoot, counsel for the applicant above named, and also came Mr. Fred Patterson, Assistant United States District Attorney, counsel for the respondent herein, and this cause was called for hearing on the demurrer heretofore filed by counsel for the respondent. Argument was had by counsel but not concluded. By order of Court this case was continued to March 19, 1924, for further argument, at 2 o'clock P. M.

WILLIAM T. RAWLINS,
District Judge Presiding. [41]

Minutes of the United States District Court,
Honolulu, Territory of Hawaii.

Wednesday, March 19, 1924.

(Title of Court and Cause.)

(PROCEEDINGS AT FURTHER ARGUMENT ON DEMURRER AND ORDER TAKING CASE UNDER ADVISEMENT.)

On this day came Mr. J. Lightfoot, of the firm of Lightfoot & Lightfoot, counsel for the applicant

above named, and also came Mr. Fred Patterson, Assistant United States District Attorney, counsel for the respondent herein, and this cause was called for further argument on the demurrer filed herein. After argument by respective counsel, the case was submitted.

WILLIAM T. RAWLINS,
District Judge Presiding. [42]

Minutes of the United States District Court,
Honolulu, Territory of Hawaii.
Friday, February 13, 1925.

(Title of Court and Cause.)

(ORDER EXTENDING TIME TO TEN DAYS
TO PROSECUTE APPEAL.)

The Court having heretofore filed a decision sustaining the demurrer to the petition herein, counsel for the petitioner gave notice of appeal. The Court thereupon ordered that the counsel for petitioner be given 10 days' time to prosecute appeal.

WILLIAM T. RAWLINS,
District Judge Presiding. [43]

In the District Court of the United States in and for the District and Territory of Hawaii. No. 188. In the Matter of the Petition of TAKEYO KOYAMA, for a Writ of Habeas Corpus. Petition for Appeal and Admission to Bail Pending Appeal. Filed Mar. 2, 1925, 2 P. M. Wm. L. Rosa, Clerk. By Wm. F. Thompson, Jr., Deputy Clerk. Service of the Within Petition for Appeal and Admission to Bail Pending Appeal is Hereby Admitted this 2nd Day of March, 1925. Charles F. Parsons, United States Attorney. Lightfoot & Lightfoot, 9-9a-10 McIntyre Building, Honolulu, T. H., Attorneys for Takeyo Koyama. [44]

In the District Court of the United States in and for the District and Territory of Hawaii.

In the Matter of the Petition of TAKEYO KOYAMA for a Writ of Habeas Corpus.

PETITION FOR APPEAL AND ADMISSION TO BAIL PENDING APPEAL.

Now comes Takeyo Koyama and respectfully represents that on the 21st day of February, 1925, a judgment was entered by this court dismissing her petition for a writ of habeas corpus and remanding her to the custody of A. E. Burnett, Esquire, United States District Director of Immigration at the port of Honolulu, for deportation.

And your petitioner respectfully shows that in

said record, proceedings and judgment, in this cause, lately pending in said court, manifest errors have intervened to the prejudice and inquiry of your petitioner, all of which will appear more in detail in the assignment of errors which is filed with this petition.

WHEREFORE, your petitioner prays that an appeal may be allowed her from said judgment to the United States Circuit Court of Appeals for the Ninth Circuit and that said appeal may be made a supersedeas upon the filing of a bond to be fixed by the Court; that the petitioner may be admitted to bail pending the determination of the appeal in the said court.

Dated at Honolulu, this 2nd day of March, 1925.

TAKEYO KOYAMA,

Petitioner.

LIGHTFOOT & LIGHTFOOT,

J. LIGHTFOOT,

Her Attorneys. [145]

In the District Court of the United States in and for the District and Territory of Hawaii. No. 188. In the Matter of the Petition of Takeyo Koyama, for a Writ of Habeas Corpus. Assignment of Errors. Filed Mar. 2, 1925, 2 P. M. Wm. L. Rosa, Clerk. By Wm. F. Thompson, Jr., Deputy Clerk. Service of the within assignment of errors is hereby admitted, this 2nd day of March, 1925. Charles

F. Parsons, United States Attorney. Lightfoot & Lightfoot, 9-9a-10 McIntyre Building, Honolulu, Attorneys for Takeyo Koyama. [46]

In the District Court of the United States, in and for the District and Territory of Hawaii.

In the Matter of the Petition of TAKEYO KOYAMA, for a Writ of Habeas Corpus.

ASSIGNMENT OF ERRORS.

Now comes Takeyo Koyama, by her attorneys, Messrs. Lightfoot & Lightfoot, and in connection with her petition for an appeal says that in the record and proceedings and judgment aforesaid, and during the trial of the above-entitled cause in said District Court, error has intervened to her prejudice; and this appellant here assigns the following errors, to wit:

I.

The Court erred in not holding that this petitioner and appellant is wrongfully held and illegally imprisoned and in dismissing her petition for a writ of habeas corpus and remanding her into custody for deportation.

II.

The Court erred in holding and deciding that the proceedings before the Board of Special Inquiry clearly discloses that the hearing was a fair one.

III.

The Court erred in holding and deciding that the effect of the Act of March 2, 1921 was to extend the passport and visé provisions on the Act of May 22, 1918, beyond the period set forth in that Act, namely, when the United States is at war, and to that extent to repeal this time extension of the passport visé provisions of that Act. [47]

IV.

The Court erred in holding and deciding as follows:

It is clear that these provisions (that is, the provisions of the Act of May 22, 1918) were not "in force only during the existence of a state of war and are therefore not repealed by the joint resolution of March 3, 1921."

V.

The Court erred in holding and deciding as follows:

"The petitioner herein not having provided herself with a passport, and the affidavits, one made in Honolulu, and the other before the American Consul at Yokohama, Japan, not having the force of or taking the place of a passport as required by the statutes above quoted, cannot be admitted to the United States."

VI.

The Court erred in sustaining the demurrer filed in said cause.

VII.

The Court erred in entering judgment discharg-

ing the alternative writ of habeas corpus theretofore issued in said cause.

VIII.

The Court erred in entering judgment remanding petitioner to the custody of the respondent, A. E. Burnett, Inspector in Charge of Immigration.

By reason whereof, this petitioner and appellant prays that said judgment may be reversed and that she, the said petitioner and appellant, be ordered discharged from custody.

Dated at Honolulu, this 2d day of March, 1925.

TAKEYO KOYAMA,

Petitioner.

By LIGHTFOOT & LIGHTFOOT,

J. LIGHTFOOT,

Her Attorneys. [48]

In the District Court of the United States in and for the District and Territory of Hawaii. No. 188. In the Matter of the Petition of Takeyo Koyama, for a Writ of Habeas Corpus. Order Allowing Appeal and Releasing Prisoner on Bail. Filed Mar. 2, 1925, 2 P. M. Wm. L. Rosa, Clerk. By Wm. F. Thompson, Jr., Deputy Clerk. Service of the within order allowing appeal and releasing prisoner on bail is hereby admitted, this 2nd day of March, 1925. Charles F. Parsons, United States Attorney. Lightfoot & Lightfoot, 9-92-10 McIntyre Building, Honolulu, T. H., Attorneys for Takeyo Koyama. [49]

In the District Court of the United States, in and
for the District and Territory of Hawaii.

In the Matter of the Petition of TAKEYO KOY-
AMA, for a Writ of Habeas Corpus.

ORDER ALLOWING APPEAL AND RELEAS-
ING PRISONER ON BAIL.

On reading the petition of Takeyo Koyama for
an appeal from the judgment entered herein to the
United States Circuit Court of Appeals for the
Ninth Circuit, and upon consideration of the assign-
ment of errors presented therewith,—

IT IS HEREBY ORDERED that the appeal, as
prayed for, be, and the same is, hereby allowed.

And it appearing to the Court that a citation was
duly served, as provided by law, it is ordered that
petitioner be admitted to bail pending the final de-
termination of this appeal in the sum of One
Thousand Dollars (\$1,000.00) the appeal to operate
as a supersedeas.

Cost bond on appeal is hereby fixed at the sum of
Five Hundred Dollars (\$500.00).

Dated at Honolulu, this 2d day of March, 1925.

WILLIAM T. RAWLINS,

Judge, United States District Court, in and for the
District and Territory of Hawaii. [50]

In the District Court of the United States in and
for the District and Territory of Hawaii. No. 188.

In the Matter of the Petition of Takeyo Koyama, for a Writ of Habeas Corpus. Citation. Filed Mar. 2, 1925, 2 P. M. Wm. L. Rosa, Clerk. By Wm. F. Thompson, Jr., Deputy Clerk. Service of the within citation is hereby admitted, this 2nd day of March, 1925. Charles F. Parsons, United States Attorney. Lightfoot & Lightfoot, 9-9a-10 McIntyre Building, Honolulu, T. H., Attorneys for Takeyo Koyama. [51]

In the District Court of the United States in and for the District and Territory of Hawaii.

In the Matter of the Petition of TAKEYO KOYAMA, for a Writ of Habeas Corpus.

CITATION.

The United States of America,—ss.

The President of the United States, To the United States of America, GREETING:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit at the city of San Francisco within thirty days from the date of this writ pursuant to an appeal duly allowed by the District Court of the United States in and for the District and Territory of Hawaii and filed in the Clerk's office of said court on the 2d day of March, 1925, in a certain cause wherein Takeyo Koyama is appellant and you are appellee to show cause, if any, why the judgment rendered against the said appellant, as in said appeal mentioned, should not be

corrected and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable WILLIAM T. RAWLINS, Judge of the District Court of the United States, in and for the District and Territory of Hawaii, this 2d day of March, 1925.

WILLIAM T. RAWLINS,
Judge, United States District Court, in and for the
District and Territory of Hawaii.

[Seal] Attest: WM. L. ROSA,
Clerk. [52]

In the United States District Court in and for the District and Territory of Hawaii. No. 188. In the Matter of the Petition of Takeyo Koyama for a Writ of Habeas Corpus. Supersedeas Bail Bond. Filed Mar. 7, 1925, at 11 o'clock and 1 minutes A. M. Wm. L. Rosa, Clerk. By Wm. F. Thompson, Jr., Deputy Clerk. Service of the Within Supersedeas Bail Bond is Hereby Admitted this 6th day of March, 1925. Charles F. Parsons, United States Attorney. Lightfoot & Lightfoot, 9-9a-10 McIntyre Building, Honolulu, Attorneys for Takeyo Koyama. [53]

In the United States District Court in and for the
District and Territory of Hawaii.

No. 188.

In the Matter of the Petition of TAKEYO KO-
YAMA for a Writ of Habeas Corpus.

SUPERSEDEAS BAIL BOND.

KNOW ALL MEN BY THESE PRESENTS:
That we, Takeyo Koyama, as principal, and F. K. Makino and S. Uyeda, as sureties, are held and firmly bound unto the United States of America in the penal sum of One Thousand Dollars (\$1,000.00), lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Witness our hands and seals, this 6th day of March, A. D. 1925.

WHEREAS, heretofore and on, to wit, the 21st day of February, 1925, judgment was entered in the said court and cause dismissing the alternative writ of habeas corpus and remanding the said Takeyo Koyama to the custody of the Immigration officials, and

WHEREAS, an appeal has been duly allowed from said judgment to the United States Circuit Court of Appeals of the Ninth Circuit, and

WHEREAS on the 2d day of March, 1925, by an order duly made and entered in said court and cause by the Honorable William T. Rawlins, Judge

of said court, it was provided that [54] the said Takeyo Koyama should be admitted to bail in the sum of One Thousand Dollars (\$1,000.00) pending the said appeal;

THEREFORE, and this obligation is such that if the said Takeyo Koyama shall appear and surrender herself in open court before the Judges of said court, and shall abide the further order of the court, in the event said judgment shall be affirmed, and not depart the court, then this obligation shall be null and void, otherwise to remain in full force and effect.

IN WITNESS, the said parties have hereto set their hands and seals, this 6th day of March, A. D. 1925.

TAKEYO KOYAMA, (Seal)

Principal.

F. K. MAKINO, (Seal)

S. UYEDA, (Seal)

Sureties.

Territory of Hawaii,
United States of America,—ss.

F. K. Makino and S. Uyeda, being first duly sworn, on oath, each for himself, deposes and says: That he is the surety on the foregoing bond; that he is a resident of Honolulu, City and County of Honolulu, Territory of Hawaii, and has property situate within the Territory of Hawaii subject to execution and that he is worth in property within the Territory of Hawaii aforesaid, more than the amount of the penalty specified in said bond, over and above

all his debts and liabilities and property exempt from execution.

F. K. MAKINO.

S. UYEDA.

Subscribed and sworn to before me this 6th day of March, 1925.

[Seal]

JIUNKI MAEDA,

Notary Public, First Judicial Circuit, Territory of Hawaii.

Approved:

WILLIAM T. RAWLINS,

Judge, United States District Court in and for the District and Territory of Hawaii.

Approved as to form:

CHARLES F. PARSONS,

U. S. Attorney, District of Hawaii. [55]

In the District Court of the United States in and for the District and Territory of Hawaii. No. 188. In the Matter of the Petition of Takeyo Koyama for a Writ of Habeas Corpus. Appeal Bond for Costs. Filed Mar. 7, 1925, at 11 o'clock and 1 minutes A. M. Wm. L. Rosa, Clerk. By Wm. F. Thompson, Jr., Deputy Clerk. Service of the within appeal bond for costs is hereby admitted this 6th day of March, 1925. Charles F. Parsons, United States Attorney. Lightfoot & Lightfoot, 9-9a-10 McIntyre Building, Honolulu, Attorneys for Takeyo Koyama. [56]

In the United States District Court in and for the
District and Territory of Hawaii.

No. 188.

In the Matter of the Petition of TAKEYO KO-
YAMA for a Writ of Habeas Corpus.

APPEAL BOND FOR COSTS.

KNOW ALL MEN BY THESE PRESENTS:
That we, Takeyo Koyama, as principal and F. K.
Makino and S. Uyeda, as sureties, are held and
firmly bound unto the United States of America in
the full and just sum of Five Hundred Dollars
(\$500.00), lawful money of the United States, to be
paid to the said United States of America, to which
payment, well and truly to be made, we bind our-
selve, our heirs, executors and administrators,
jointly and severally, by these presents.

Sealed with our seals and dated this 6th day of
March, 1925.

WHEREAS, at the October, 1925, Term of the
United States District Court in and for the District
and Territory of Hawaii in a habeas corpus proceed-
ing pending in said court, to wit, in the Matter of
the Petition of Takeyo Koyama for a Writ of Ha-
beas Corpus, Habeas Corpus No. 188, a judgment
was rendered against the said Takeyo Koyama
dismissing her petition for a writ of habeas and
remanding her into the custody of Immigration
officials, and the said Takeyo Koyama having ob-
tained an appeal to the United States Circuit Court

of Appeals for the Ninth Circuit to reverse the judgment in the aforesaid proceeding,— [57]

NOW, the condition of the above obligation is such that if the said Takeyo Koyama shall prosecute her appeal to effect and answer all damages and costs if she fails to make her plea good, then the above obligation to be void; else to remain in full force and effect.

TAKEYO KOYAMA, (Seal)

Principal.

F. K. MAKINO, (Seal)

S. UYEDA, (Seal)

Sureties.

United States of America,
Territory of Hawaii,—ss.

F. K. Makino and S. Uyeda, being first duly sworn, on oath, each for himself, deposes and says: That he is the surety on the foregoing bond; that he is a resident of Honolulu, City and County of Honolulu, Territory of Hawaii, and has property situate within the Territory of Hawaii, subject to execution and that he is worth in property within the Territory of Hawaii aforesaid, more than the amount of the penalty specified in said bond, over and above all his debts and liabilities and property exempt from execution.

F. K. MAKINO.

S. UYEDA.

Subscribed and sworn to before me this 6th day of March, 1925.

[Seal]

JIUNKI MAEDA,
Notary Public, First Judicial Circuit, Territory of
Hawaii.

Approved:

WILLIAM T. RAWLINS,
Judge, United States District Court, in and for the
District and Territory of Hawaii.

Approved as to form:

CHARLES F. PARSONS,
U. S. Attorney, Dist. of Hawaii. [58]

In the District Court of the United States in and for the District and Territory of Hawaii. No. 188. In the Matter of the Application of Takeyo Koyama for a Writ of Habeas Corpus. Order Extending Time for Filing Record. Filed Apr. 30, 1925, at 2 o'clock and 30 minutes P. M. Wm. L. Rosa, Clerk. By _____, Deputy Clerk. [59]

In the District Court of the United States in and for the District and Territory of Hawaii.

In the Matter of the Petition of TAKEYO Koyama for a Writ of Habeas Corpus.

ORDER EXTENDING TIME TO AND INCLUDING MAY 31, 1925, FOR FILING RECORD.

Upon request of Wm. L. Rosa, Clerk of the United States District Court, and upon satisfactory showing that said request is reasonable—

IT IS HEREBY ORDERED that the time for the completion and filing of the record on appeal to the Circuit Court of Appeals of the Ninth Circuit in the above-entitled cause be, and the same is, hereby extended to and including the 31st day of May, A. D. 1925.

WILLIAM T. RAWLINS,
Judge, United States District Court.

Approved:

CHARLES F. PARSONS,
United States District Attorney. [60]

In the District Court of the United States in and for the District and Territory of Hawaii. 188. In the Matter of the Petition of Takeyo Koyama for a Writ of Habeas Corpus. Order Extending Time for Filing of Record. Filed Mar. 31/25, at 3 o'clock and 05 minutes P. M. Wm. L. Rosa, Clerk. By _____, Deputy Clerk.

Received a copy of the foregoing order extending time for filing record this 31st day of March, 1925. _____, Attorney for _____. Lightfoot & Lightfoot, 9-9a-10 McIntyre Building, Honolulu, Attorneys for Takeyo Koyama. [61]

In the United States District Court for the Territory of Hawaii.

In the Matter of the Petition of TAKEYO Koyama for a Writ of Habeas Corpus.

ORDER EXTENDING TIME TO AND INCLUDING APRIL 30, 1925, FOR FILING RECORD.

Upon request of Wm. L. Rosa, Clerk of the United States District Court, and upon satisfactory showing that said request is reasonable—

IT IS HEREBY ORDERED that the time for the completion and filing of the record on appeal to the Circuit Court of Appeals of the Ninth Circuit in the above-entitled cause be, and the same is hereby extended to and including the 30th day of April, 1925.

WILLIAM T. RAWLINS,
Judge, U. S. District Court Territory of Hawaii.

Approved:

CHARLES F. PARSONS,
U. S. Attorney. [62]

In the United States District Court for the Territory of Hawaii.

No. 188.

In the Matter of the Application of TAKEYO KOYAMA for a Writ of Habeas Corpus.

CERTIFICATE OF CLERK U. S. DISTRICT COURT TO TRANSCRIPT OF RECORD.

United States of America,
Territory of Hawaii,—ss.

I, Wm. L. Rosa, Clerk of the United States District Court for the Territory of Hawaii, do hereby certify the foregoing pages, numbered from 1 to 63, inclusive to be a true and complete transcript of the record and proceedings had in said court in the above-entitled cause, as the same remains of record and on file in my office, and I further certify that I am attaching hereto the original petition for allowance of appeal and supersedeas, assignment of errors, order allowing appeal and supersedeas, supersedeas bond, bond for costs, citation and two orders extending time to file record, and I also further certify that the cost of the foregoing transcript of record is \$24.50 and that said amount has been paid to me by the appellant herein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said court this 19th day of May, A. D. 1925.

[Seal]

WM. L. ROSA,
Clerk, United States District Court, Territory of Hawaii. [63]

[Endorsed]: No. 4637. United States Circuit Court of Appeals for the Ninth Circuit. Takeyo Koyama, Appellant, vs. A. E. Burnett, Immigration Inspector of the Port of Honolulu, Hawaii, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Territory of Hawaii.

Filed July 14, 1925.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.